

### REMARKS

Claims 1-3 are pending in the above referenced patent application. Applicant acknowledges, pursuant to the restriction requirement, the election of claims 1-3 and the cancellation of originally filed claims 4 and 5. Applicant has added an additional claim 6 that depends from claim 2. No new matter has been added.

The Examiner has objected to the Abstract because it contains two paragraphs and exceeds 150 words. Applicant has addressed the issues raised by the Examiner thereby obviating the objection.

The Examiner has rejected claims 1-3 under 35 U.S.C. §112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Applicant has amended claims 1 and 2 to address the issues raised by the Examiner and reconsideration of the section 112 rejection is respectfully requested.

The Examiner has rejected claims 2 and 3 under 35 U.S.C. § 103(a) as being unpatentable over United States Patent No. 2,953,461 to Prohaska (hereinafter referred to as the '461 reference) in view of United States Patent No. 3,116,680 to Neumann (hereinafter referred to as the '680 reference). The '461 reference is directed to a method of comminuted meat processing by continuously extruding meat from a conventional stuffer mechanism and precooking the meat while moving it through a forming horn. Precooking the meat while moving it through the forming horn is effected by subjecting the meat to a high frequency current which produces at least an initial set in the meat. Because the forming horn is preferably made to have a smooth interior surface, passing the meat therethrough causes the surfaces of the meat to be smoother while setting. Because the surface of the meat is smoother while setting, the final appearance of the meat is improved. Furthermore, because the meat is formed and set in a continuous process, the need for providing individual molds for forming the meat (e.g., into sausage links) is eliminated.

The '680 reference is directed to a roasting machine having a generally cylindrical open-ended container of electrical insulating material in which food may be packed. End caps are provided for closing and sealing the ends of the container and for further facilitating the conduction of electric current to the ends of the body of food packed in the container. The container is placed on a support having

electrical terminals that frictionally engage the end caps to complete an electrical circuit. The support further includes means for rotatably supporting the container about a horizontal axis substantially in line with points of contact established between the end caps and the electrical terminals. During operation, food is packed into the container, the end caps are clamped into place to seal the food in the container, and the container is rotated about the horizontal axis. The circuit feeds electric current through the food. Passing the current through the food heats the food and cooks it uniformly throughout its mass. When the entire mass of food reaches a final cooked temperature, thermal switches on the container reach the same temperature at which point the switches open and interrupt the circuit through the food. The cooked food is then cooled while being continuously rotated.

The '461 and '680 references either alone or in combination fail to teach or suggest the invention recited in claims 1 and 2 of the instant application. With regard to claim 2, neither the '461 reference nor the '860 reference disclose two distinct heating steps (a preheating step and a main heating step) separated by a forming step. Furthermore, the references are not properly combinable because the '461 reference is directed to a continuous process whereas the '860 reference is directed to a batch process. One of skill in the art would not combine a continuous process with a batch process. In addition, neither of the references provides any teaching or suggestion that the claimed combination be made.

For at least these reasons, Applicant respectfully submits that neither the '461 or the '860 references as applied by the Examiner, alone or in combination, render the claims in the current application obvious. An early action to that effect is earnestly solicited.

Claim 1 has also been rejected under 35 U.S.C. §103(a) as being unpatentable over the '461 reference in view of the '860 reference and further in view of JP 361058533A (hereinafter JP '533) and JP 408214785A (hereinafter "JP '785"). JP '533 is directed to the preparation of mutton so that the mutton resembles beef. Such a preparation entails defatting the mutton in boiling water, removing the fat from the water, centrifuging the defatted mutton/water mixture, and washing the centrifuged, defatted mutton with hot water to remove the characteristic mutton smell. The mutton is then boiled in molten beef tallow to obtain a beef-like meat having a different texture from the initial mutton material.

JP '785 is directed to a seafood/meat/vegetable mixture packed into a casing with a thickener. The mixture is prepared for packing into the casing by being uniformly mixed with a dough of ground fish and salt. The casing and its contents are then heated.

Regarding the Examiner's rejection of claim 1, the same reasons set forth above with respect to the allowability of claim 2 apply equally to claim 1.

Additionally, in the Office Action, the Examiner states that the '461 reference teaches a main heating step and in support cites column 3, line 21. Since this line in the '461 reference is only a portion of a sentence, the entire sentence is set forth herein as follows:

"The conveyor 38 is adapted to carry the individual links 35 disposed thereon to any further processing as **may be required**, such as smoking or additional cooking." (emphasis ours)

This passage of the '461 reference is vague at best and does not positively set forth a main heating step comprising heating the formed animal paste by joule heat generated by current flowing therein up to a production temperature as is recited in claim 1 of the application in question. In fact, no mention whatsoever is made of a main heating step at a production temperature using joule heat. Instead, only passing reference is made to the possibility of additional cooking with no other detail provided. This cannot be considered a sufficient disclosure to support a section 103 rejection. It is a stretch at best to state, as the Examiner does, that the Joule heating recited in the '860 reference combined with a recital that further processing "may be required" found in the '461 reference, discloses the main heating step of claim 1. The only manner by which such a mental leap can be made is via hindsight gleaned from the disclosure found in Applicant's patent application.

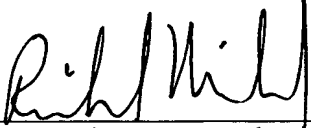
For at least these reasons, Applicant submits that claim 1 is in condition for allowance and an early action to that effect is earnestly solicited. Since the remaining claims in the application ultimately depend from claims 1 and 2, they too are allowable.

Should any matters remain unresolved, Applicant requests that the Examiner contact Applicant's Representative at the number listed herein below.

Appl. No. 10/000,209  
Amdt. dated October 1, 2004  
Reply to Office Action of April 1, 2004

Applicant hereby petitions for a three-month extension of time to respond to the Office Action of April 1, 2004, so that the term for response will expire on October 1, 2004. A check in the amount of \$980.00 is submitted herewith in payment of the extension fee. Any deficiency in the payment of this fee, may be charged to our Deposit Account No. 13-0235.

Respectfully submitted,

By   
Richard R. Michaud  
Registration No. 40,088  
Attorney for Applicant

McCormick, Paulding & Huber LLP  
CityPlace II  
185 Asylum Street  
Hartford, Connecticut 06103-3402  
(860) 549-5290